

**United States Bankruptcy Court  
South Carolina**

**Clerk's Instruction: Motions on Passive Notice - CI-9014-2<sup>1</sup>**

Special motion days are scheduled each month. Counsel should make a reasonable and good faith effort to coordinate hearings on motions with the calendars of opposing counsel and the trustee in the case.

Hearing dates and locations for scheduled motions noticed passively are posted on the court's Internet web site at [www.scb.uscourts.gov](http://www.scb.uscourts.gov),<sup>2</sup> on PACER Classic, are available from the Intake Division of the clerk's office, published in the *Disclosure Statement* publication of the South Carolina Bankruptcy Law Association, and are posted outside the courtrooms. If the movant anticipates that a hearing may take one (1) hour or more, the movant should contact the Judge's law clerk or a courtroom deputy clerk to secure an alternative hearing date versus choosing one from the passive notice calendar dates.

The moving party must:

- (a) **Select a Hearing Date:** The moving party must select a hearing date from the calendar provided by the clerk which indicates dates designated as days available to schedule passive notice motions entitled "Motions Days". If the judge has more than one hearing date within the applicable time frames, the movant may select any of those dates. No hearing date further than seventy-five (75) days from the service of the motion may be used.
  - (1) Select a hearing date no less than ten (10) days following the last day for objections(as outlined in item "c" below).
  - (2) Schedule the motion in all cases in the same division as the case venue unless otherwise approved by the court.
  - (3) Prepare a hearing notice (Local Official Form 9014-2(a)) and indicate the date, time of hearing and hearing location (complete address)). The hearing notice shall be signed by the attorney representing the movant or by the movant only, if *pro se*.
- (b) **Serve and Transmit the Motion:** No more than Seventy-five (75) days prior to the scheduled hearing date, the moving party must serve on at least the debtor, attorney for the debtor, the trustee, if one is so appointed, and any other interested party entitled to notice and must simultaneously transmit to the clerk of court for filing:
  - (1) The motion;<sup>3 & 4</sup>
  - (2) The notice of hearing of the motion;
  - (3) A proposed order;
  - (4) A certificate of service of items 1-3.

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<sup>1</sup> See SC LBR 9014-2

<sup>2</sup> For detailed information and phone numbers in order to access PACER Classic or the court's Internet web site at [www.scb.uscourts.gov](http://www.scb.uscourts.gov), refer to Clerk's Instruction: Automation Services - CI-5001-1.

<sup>3</sup> For Item 16 on the Passive Notice List (Applications for Fees) only the form notice must be served on all creditors and parties in interest. The United States Trustee must be served with the complete motion/application.

<sup>4</sup> For Item 14 on the Passive Notice List (FRBP 4001(d) Relief) use LOF 4001-4 pursuant to SC LBR 4001-4.

(c) Response/Return or Objection to Motion: Any response, return and/or objection to the motion must be served no later than twenty (20)\* days following the service date of the motion. If filing a § 1301 motion, any response, return and or/objection to the motion must be served no later than twenty (20) days following the filing date of the motion (CI-4001-1). The response, return and/or objection should be served on all parties in interest and must simultaneously be transmitted to the clerk of court for filing.

(1) The hearing notice which gives the date, time and location of the hearing will be calendared when a response, return and/or objection, or other request for hearing is timely filed, unless the Judge directs otherwise. Copies of court calendars are provided to members of the public and the bar as a courtesy (they are posted on PACER Classic and the court's Internet web site at [www.scb.uscourts.gov](http://www.scb.uscourts.gov)); however, they should not be relied upon as absolute if there is a notice to the contrary, or a rule or procedure (such as this) which takes precedence.

(2) If the objection times expires without the filing of an response, return and/or objection or other request, the proposed order will be promptly submitted to the judge for his consideration. If the matter is otherwise settled between the parties, the courtroom deputy clerk shall be immediately advised by telephone and a consent order shall be submitted at or before the scheduled hearing date, or the terms of settlement shall be announced at the hearing and an order entered.

(d) Items on the current passive notice list, Local Official Form 9014-2(b), should be noticed and scheduled by the moving party using this Clerk's Instruction. The motions/applications which are marked with an asterisk have existing local official forms, which contain substantive language which must be included in either the notice or the separate motion/application.

- \* The minimum time period for response, return and/or an objection to a motion to Reopen/Reconsider is fifteen (15) days.
- \* The minimum time period for response, return and/or an objection to claim is thirty (30) days. See Federal Rule of Bankruptcy Procedure 3007. (Government Agency - thirty-five (35) days).
- \* The minimum time period for response, return and/or an objection to application for final decree in a chapter 11 case is thirty (30) days.
- \* The minimum time period for response, return and/or an objection to a motion to avoid lien or motion to establish value is twenty-five (25) days.
- \* The minimum time period for response, return and/or objection to a motion to extend time to object to debtor's discharge is fifteen (15) days.
- \* The minimum time period for response, return, and/or objection to use of cash collateral, obtaining credit, or an agreement relating to relief from the automatic stay, prohibiting or conditioning the use, sale, or lease of property, providing adequate protection, use of cash collateral, and obtaining credit is fifteen (15) days.
- \* The minimum time period for response, return and/or an objection to all other motions/applications is twenty (20) days.